

Notice of Allowability

Application No.

10/623,241

Applicant(s)

HORN, JURGEN

Examiner

Dr. Kailash C. Srivastava

Art Unit

1657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After Final Amendment filed 12/27/2007.
2. ☒ The allowed claim(s) is/are 1-9, 12 and 15-27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>1302008</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Examiner's Amendment

1. Response filed 27 December 2007 to the Office Action mailed 28 September 2007 is acknowledged and entered.

Informal Matters

2. Please note, contrary to the information presented in the caption of response filed 27 December 2007, the instant application (i.e., U.S. Non-provisional Application Serial Number 10/623,241) currently under prosecution at the United States Patent and Trademark Office (i.e., USPTO) is assigned to Art Unit 1657, not to Art Unit 1655. To aid in correctly correlating any papers for this application (i.e., 10/623,241), all further correspondence regarding this application including response, if any, to instant Office Action should be directed to Examiner Kailash C. Srivastava in Art Unit 1657.

Withdrawals In View of Arguments

3. In view of remarks filed 27 December 2007 to the Office Action mailed 28 September 2007, the following objections and rejection made in the Office Action mailed 28 September 2007 are hereby withdrawn:

- Objection to specification as lacking support for the weight % of different components as claimed in Claims 1-9, 12 and 15-27;
- Objection to Claim 25 for "a" at Line 4; and
- Indefiniteness rejection to Claims 24 and 26-27 under 35 U.S.C. §112, second paragraph.

Claims Status

4. Claims 10-11 and 13-14 have been cancelled.
5. Claims 1, -2, 15-16 and 24-27 have currently been amended.
6. 1-9, 12 and 15-27 are pending.

Examiner's Amendment

7. An Examiner's amendment to the record appears below. Should the changes and/or additions be

unacceptable to applicants, an amendment may be filed as provided by 37 C.F.R. §1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview on 30 January 2008 with Mr. Serle I. Mosoff, Applicants' Representative.

In the Claims:

The following listing of claims will replace all prior versions, and listings, of claims in the instant application:

Listing of Claims:

1. (Previously Presented) A hydrogen-peroxide neutralizing gamma-sterilisable nutrient medium comprising casein soy peptone agar with between 2 and 10% by weight of sodium thioglycolate, between 10 and 30% by weight of sodium thiosulfate and between 5 and 20% by weight of sodium disulfite in each case with respect to the agar.
2. (Currently Amended) A nutrient medium as set forth in claim 1, further comprising between 0.1 and 0.25% by weight of sodium pyruvate with respect to the agar.
3. (Currently Amended) A nutrient medium as set forth in claim 1, further comprising at least one of bromocresol purple and bromocresol violet as a pH-indicator and between 10 and 50% by weight of polyvinylpyrrolidone with respect to the agar.
4. (Currently Amended) A nutrient medium as set forth in claim 3, wherein the content of polyvinylpyrrolidone with respect to the agar is between 30 and 45% by weight.
5. (Previously Presented) A nutrient medium as set forth in claim 1 comprising bromothymol blue as a pH-indicator and between 10 and 50% by weight of polyvinylpyrrolidone with respect to the agar.

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6. (Currently Amended) A nutrient medium as set forth in claim 5, wherein the content of polyvinylpyrrolidone with respect to the agar is between 30 and 45% by weight.
7. (Currently Amended) A nutrient medium as set forth in claim 1, further comprising a buffer where between 20 and 50% of the total amount of buffer is morpholinopropane sulfonic acid and between 50 and 80% of the total amount of buffer is phosphate buffer.
8. (Currently Amended) A nutrient medium as set forth in claim 1, wherein the agar is microbial content test agar ~~is used as the agar~~.
9. (Currently Amended) A nutrient medium as set forth in claim 1, further comprising at least one compound selected from the group consisting of betaine, glycine, cystine, proline and asparagine.
- 10-11. (Canceled)
12. (Previously Presented) A method for detecting microorganisms in hydrogen peroxide-bearing air or on a hydrogen peroxide-bearing surface, said method comprising contacting said air or surface with a nutrient medium as set forth in claim 1, and detecting growth of microorganisms in said medium.
- 13-14. Cancelled
15. (Previously Presented) A hydrogen-peroxide neutralizing nutrient medium sterilized by gamma radiation comprising casein soy peptone agar, between 2 and 10% by weight of sodium thioglycolate, between 10 and 30% by weight of sodium thiosulfate and between 5 and 20% by weight of sodium disulfite in each case with respect to the agar.
16. (Currently Amended) A nutrient medium as set forth in claim 15, further comprising between 0.1 and 0.25% by weight of sodium pyruvate with respect to the agar.
17. (Currently Amended) A nutrient medium as set forth in claim 15, further comprising at least one of bromocresol purple and bromocresol violet as a pH-indicator and between 10 and 50% by weight of polyvinylpyrrolidone with respect to the agar.
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18. (Currently Amended) A nutrient medium as set forth in claim 17, wherein the content of polyvinylpyrrolidone with respect to the agar is between 30 and 45% by weight.
19. (Previously Presented) A nutrient medium as set forth in claim 15 comprising bromothymol blue as a pH-indicator and between 10 and 50% by weight of polyvinylpyrrolidone with respect to the agar.
20. (Currently Amended) A nutrient medium as set forth in claim 19, wherein the content of polyvinylpyrrolidone with respect to the agar is between 30 and 45% by weight.
21. (Currently Amended) A nutrient medium as set forth in claim 15, further comprising a buffer where between 20 and 50% of the total amount of buffer is morpholinopropane sulfonic acid and between 50 and 80% of the total amount of buffer is phosphate buffer.
22. (Currently Amended) A nutrient medium as set forth in claim 15, wherein the agar is microbial content test agar ~~is used as the agar~~.
23. (Currently Amended) A nutrient medium as set forth in claim 15, further comprising at least one compound selected from the group consisting of betaine, glycine, cystine, proline and asparagine.
24. (Currently Amended) A method for detecting microorganisms in hydrogen peroxide-bearing air, said method comprising contacting said air with a nutrient medium as set forth in claim ~~[[1]]~~ 15, and detecting ~~[[a]]~~ growth of microorganisms in said medium.
25. (Currently Amended) A method for detecting microorganisms on a hydrogen peroxide-bearing surface comprising contacting said surface with a nutrient medium as set forth in claim ~~[[1]]~~ 15, and detecting ~~[[a]]~~ growth of microorganisms in said medium.
26. (Currently Amended) A nutrient medium as set forth in claim 1, further comprising between 0.05 and 0.25% by weight of sodium pyruvate with respect to the agar.

27. (Currently Amended) A nutrient medium as set forth in claim 15, further comprising between 0.05 and 0.25% by weight of sodium pyruvate with respect to the agar.


8. Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Claims 1-9, 12 and 15-27 are allowed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (571) 272-0923. The examiner can normally be reached on Monday to Thursday from 7:30 A.M. to 6:00 P.M. (Eastern Standard or Daylight Savings Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Jon Weber can be reached at (571)-272-0925 Monday through Thursday 7:30 A.M. to 6:00 P.M. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (i.e., PAIR) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (i.e., EBC) at: (866)-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 Kailash C. Srivastava, Ph.D.
Patent Examiner
Art Unit 1657
(571) 272-0923

30 January 2008

/Jon P. Weber/
Jon P. Weber
Supervisory Patent Examiner, 1657